

1 is fair and equitable to the consumer, with regard to the confidentiality, accuracy,
2 relevancy” of the consumer information they disseminate. 15 U.S.C. § 1681(b).

3 **JURISDICTION AND VENUE**

4 5. Jurisdiction of this Court arises under 15 U.S.C. § 1681p and 28 U.S.C.
5 § 1331.

6 6. Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b).

7 **PARTIES**

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9 7. Plaintiff Robert Donovan Harris is an adult individual who resides in the
10 State of Texas.

11 8. Defendant ADP is a consumer reporting agency which provides
12 background and employment screening services, risk-management services and products,
13 information management products and services, and decisions-making intelligence. ADP
14 regularly conducts business in the District of Colorado and has a principal place of
15 business located at 301 Remington Street, Fort Collins, CO 80524.

16 **FACTUAL ALLEGATIONS**

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18 9. Defendant has been reporting derogatory and inaccurate statements and
19 information relating to Plaintiff and Plaintiff’s background to third parties (hereafter the
20 “inaccurate information”).

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22 10. The inaccurate information includes a false criminal history labeling the
23 Plaintiff as being convicted of manufacturing/possession, and pending offenses for
24 possession of weapon during violent crime, drug trafficking, failure to stop for a blue
25 light, and unlawful carry of a pistol, and personal identifying information.
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1 11. Specifically, the inaccurate information includes, but is not limited to, a
2 felony for manufacturing/possession, a misdemeanor for possession, and pending
3 offenses for possession of weapon during violent crime, drug trafficking, failure to stop
4 for a blue light, and unlawful carry of a pistol, which do not belong to Plaintiff, but instead
5 belongs to another individual with the same or similar name as Plaintiff's.

6 12. The inaccurate information negatively reflects upon the Plaintiff and
7 misidentifies Plaintiff as a person with a a felony for manufacturing/possession, a
8 misdemeanor for possession, and pending offenses for possession of weapon during
9 violent crime, drug trafficking, failure to stop for a blue light, and unlawful carry of a
10 pistol. It appears that Defendant, as a result of its unreasonable procedures, produced a
11 consumer report that identified Plaintiff as having misdemeanors and felonies because it
12 mixed his criminal history with that of another person.

13 13. Defendant has been reporting the inaccurate information through the
14 issuance of false and inaccurate background information and consumer reports that it has
15 disseminated to various persons and prospective employers, both known and unknown.

16 14. Plaintiff has been delayed in employment opportunities, including but not
17 limited to, employment opportunities with Preventice Services in April 2021. Plaintiff
18 has been informed that the basis for these delays was the inaccurate information that
19 appears on Plaintiff's consumer report with Defendant and that the inaccurate information
20 was a substantial factor for those delays.

21 15. Defendant failed to follow reasonable procedures to assure the maximum
22 possible accuracy of the information it reported about Plaintiff. Had Defendant followed
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1 such procedures it would not have falsely reported misdemeanors and felonies on
2 Plaintiff's consumer report.

3 16. As of result of Defendant's conduct, Plaintiff has suffered actual damages
4 in the form of lost employment opportunities, harm to reputation, and emotional distress,
5 including humiliation and embarrassment.

6 17. At all times pertinent hereto, Defendant was acting by and through its
7 agents, servants and/or employees who were acting within the course and scope of their
8 agency or employment, and under the direct supervision and control of the Defendant
9 herein.

10 18. At all times pertinent hereto, the conduct of the Defendant, as well as that
11 of its agents, servants and/or employees, was intentional, willful, reckless, and in grossly
12 negligent disregard for federal law and the rights of the Plaintiff herein.

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15 **COUNT ONE – VIOLATIONS OF THE FCRA**

16 19. Plaintiff incorporates the foregoing paragraphs as though the same were
17 set forth at length herein.

18 20. At all times pertinent hereto, Defendant was a "person" and a "consumer
19 reporting agency" as those terms are defined by 15 U.S.C. §§ 1681a(b) and (f).

20 21. At all times pertinent hereto, the Plaintiff was a "consumer" as that term
21 is defined by 15 U.S.C. § 1681a(c).

22 22. At all times pertinent hereto, the above-mentioned background report was
23 a "consumer report" as that term is defined by 15 U.S.C. § 1681a(d).

1 23. Pursuant to 15 U.S.C. § 1681n and 15 U.S.C. § 1681o, Defendant is liable
2 to Plaintiff for willfully and negligently failing to comply with the requirements imposed
3 on a consumer reporting agency pursuant to 15 U.S.C. § 1681e(b).

4 24. The conduct of Defendant was a direct and proximate cause, as well as a
5 substantial factor, in bringing about the serious injuries, actual damages and harm to the
6 Plaintiff outlined more fully above and, as a result, Defendant is liable to the Plaintiff for
7 the full amount of statutory, actual and punitive damages, along with the attorney's fees
8 and the costs of litigation, as well as such further relief, as may be permitted by law.
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10 **JURY TRIAL DEMAND**

11 25. Plaintiff demands trial by jury on all issues so triable.
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13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against
15 the Defendants, based on the following requested relief:
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- 17 (a) Statutory damages;
18 (b) Actual damages;
19 (c) Punitive damages;
20 (d) Costs and reasonable attorney's fees; and
21 (e) Such other and further relief as may be necessary, just and proper.
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Respectfully Submitted,

FRANCIS MAILMAN SOUMILAS, PC

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